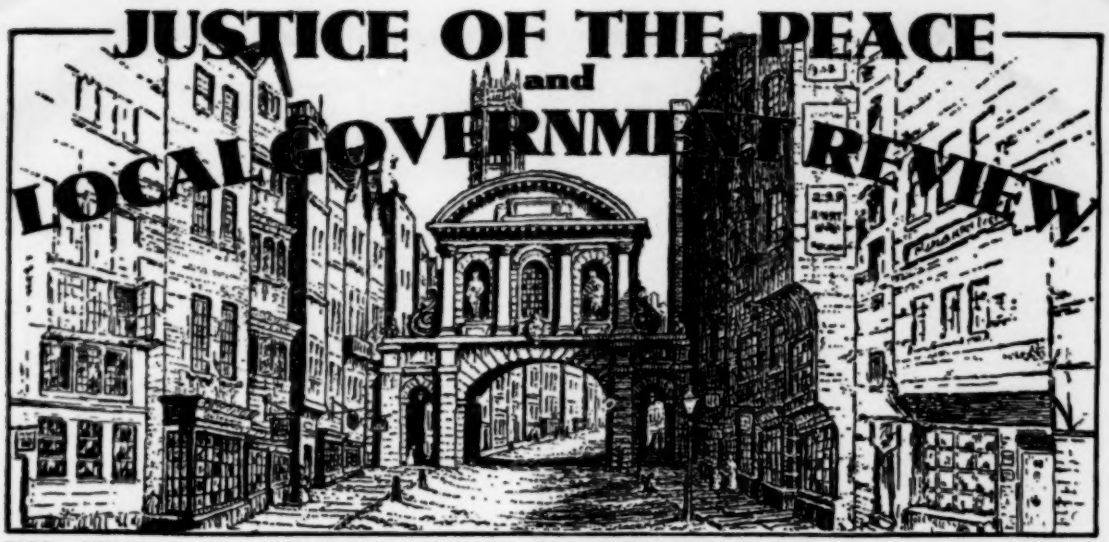

VOL. CXVI LONDON: SATURDAY, NOVEMBER 15, 1952 No. 46

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REPORTS

Official & Classified Advertisements, etc.

Official Advertisements (Appointments, Tenders, etc.), 2s. per line and 3s. per displayed headline. Classified Advertisements, 24 words 6s. (each additional line 1s. 6d.) Box Number, 1s. extra *Latest time for receipt 10 a.m. Thursday*

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NOTIFICATION OF VACANCIES ORDER, 1952

The engagement of persons answering these advertisements must be made through a Local Office of the Ministry of Labour or a Scheduled Employment Agency if the applicant is a man aged 18-64 or a woman aged 18-59 inclusive unless he or she, or the employment, is excepted from the provisions of the Notification of Vacancies Order, 1952. *Note:* Barristers, Solicitors, Local Government Officers, who are engaged in a professional, administrative or executive capacity, Police Officers and Social Workers are excepted from the provisions of the Order.

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APPLICATIONS are invited for the appointment of a Full-time Male Probation Officer to serve in the Slough area of Bucks. Applicants, other than serving Probation Officers, must not be less than twenty-three or more than forty years of age.

The appointment will be subject to the Probation Rules and the salary paid will be according to the scale prescribed in the Rules. The successful applicant may be required to pass a medical examination. Applications, stating age, present position, qualifications and experience, together with the names of at least two referees, should reach the undersigned not later than November 29, 1952.

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Town Hall,
Chiswick, W.4.

Justice of the Peace
and
Local Government Review
[ESTABLISHED 1837.]

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NOTES of the WEEK

Bastardy Arrears and a Time Limit

Before the decision of the Divisional Court in *Matthews* v. *Matthews* (1912) 76 J.P. 415, which came as a surprise to most people engaged in magisterial work, it was generally considered that arrears under an affiliation order or an order enforceable as an affiliation order were recoverable without reference to any time limit. That case decided that the time limit of six months under s. 11 of the Summary Jurisdiction Act, 1848, applied. However, the opportunity was taken when the Criminal Justice Administration Act, 1914, was passed to restore the old position as it had been believed to be, and s. 32 provided in terms that s. 11 of the Act of 1848 should not apply. It was not until the coming into force of the Limitation Act, 1939, that once again the question of a time limit for recovery of such arrears arose. It is considered by many, though so far as we are aware the point has not come up for determination, that by reason of the provisions of s. 2 (1) (*d*) and s. 31 there is a time limit of six years in this class of proceeding.

When the Magistrates' Courts Act, 1952, comes into force there will be no longer room for doubt : there will be no limitation of time. Section 74 (2) of the Act says that a complaint may be made not earlier than the fifteenth day after the order is made, but subject to this, at any time, notwithstanding anything in that or any other Act.

Road Traffic Decisions

Two cases decided recently in the High Court are worth calling attention to. The first is that of *Woolley* v. *Moore* (1952) W.N. 480 in which it was held that the decision in *Blenkin* v. *Bell* [1952] 1 All E.R. 1258 did not depend upon the fact that the vehicle therein concerned was a utility truck and that motor-cars as defined in s. 2 of the 1930 Act which are goods vehicles are not subject to the thirty miles per hour speed limit in unrestricted areas unless they are being used for a purpose for which the authority of a licence under the Road and Rail Traffic Act, 1933, is required. The Lord Chief Justice quoted what he said in *Blenkin* v. *Bell*, *supra*. " One has a vehicle which can be used either for carrying passengers or goods or both. If it is being used for carrying goods as distinct from passengers' luggage it requires a certain licence and certain restrictions are placed on it as long as it is being used as a goods vehicle. If it is not being used as a goods vehicle it would not require that licence ; it would only require the licence while carrying goods, and the speed limit is only applicable when it is carrying goods." Lord Goddard also said : " That case (*Blenkin* v. *Bell*) decided, I think largely because of s. 9 (2) of the Road and Rail Traffic Act, 1933, that where you have a vehicle which was constructed as a goods vehicle, and it was also capable of carrying passengers, as I suppose all goods vehicles are, although that vehicle had a carrier's " C " licence the conditions and so forth did not apply to it when it was not being used for the carriage of goods. Therefore, we decided that the speed limit of thirty miles an hour to which it is subjected when it is carrying goods was not applicable . . . the decision did not in the least bit turn on the question that the vehicle with which we were dealing then was what is called a shooting brake."

The other case is *James* v. *Davies* also reported at (1952) W.N. 480. This case was concerned with the taxation class appropriate to a Land Rover vehicle which was not itself carrying any goods, but which was towing a trailer in which goods were being carried. The Land Rover was found by the justices to be a vehicle constructed for the carriage of goods, and the Lord Chief Justice said that if it was in fact being used to convey goods from one place to another it did not seem to him to matter in the least whether the goods were laden on the vehicle itself or laden in a trailer which the vehicle was drawing. He continued : " I think that once you find that the vehicle, a mechanically propelled vehicle, is conveying goods, as it was conveying the goods although conveying them by means of a trailer, the question really becomes easy. It was adapted for that use, and it was being used for the conveying of goods or burden because it was moving potato trays from one place to another."

" Goods vehicle " is defined in the Vehicles (Excise) Act, 1949, for the purpose of that Act, in s. 27 as " a mechanically propelled vehicle constructed or adapted for use and used for the conveyance of goods and burden of any description, whether in the course of trade or otherwise." We feel that the last part of the Lord Chief Justice's judgment which we have quoted might be said to bring within the definition a " private " car which was towing a trailer carrying goods, on the ground that by attaching a trailer to the car for this purpose the car was being adapted for the conveyance of goods. In this case that point did not arise because of the finding that the vehicle itself was one constructed for the carriage of goods.

Enforcing an Order for Costs

Where a court makes a probation order, or order of conditional discharge, or discharges an offender absolutely, and in any of these cases makes a further order that the defendant shall pay costs, damages or compensation, the procedure for enforcing this latter order has been largely brought into line with the procedure for enforcing fines, since under the Criminal Justice Act, 1948, the probation order, etc., follows a conviction. However, whereas it is recognized that it is the duty of the court, acting through the clerk, to enforce any fines imposed, we understand that in some courts the view is taken that where, for

example, a defendant, who is dealt with under s. 3 or s. 7 of the Criminal Justice Act, 1948, is ordered to pay costs, etc., to the person from whom he stole, it is primarily the duty of that person to initiate proceedings for the enforcement of the payment of those costs. In support of this it is argued that since the order of the court does not contain any requirements that the costs shall be paid through the court, and only paid through the court, it is open to the defendant to pay the costs directly to the person named in the order, and accordingly it would be unsafe for the court to take action to enforce the order unless and until the person to whom they are payable asks for this to be done. Certainly a clerk may properly require to be satisfied that the costs have not been paid direct before he issues any process, but on the other hand it is equally certain that it is unsatisfactory that a defendant who has been treated with leniency by the courts should not make the restitution due. Where a probation order has been made no doubt the probation officer will see that the order concerning the payment of costs is complied with since, as the Social Services Committee stated, " . . . there can be no better way of restoring the offender's self-respect than to let him feel that by his own efforts he has repaid the injury done to another ". Where, however, there is no probation order it may well be, especially where the costs are to be paid to a private individual who, unlike the police or a large firm, may not be legally advised, that no action will be taken to enforce the order if the court waits for the individual to take the first steps.

In such circumstances we feel it should be recognized that it is usually the duty of the court to enforce obedience to its order, and if the costs are not paid within the time allowed the clerk should apply to the justices for the issue of process to enforce the order, subject to the proviso that the clerk should inquire from the person to whom the costs are ordered to be paid whether or not they have been paid direct. At the same time the clerk will no doubt take the precaution of inquiring whether the injured party wishes the court to issue process although there will normally be little doubt as to the reply.

Speed and Accidents

The Pedestrians Association has issued a leaflet with the title " Death By Derestriction," lamenting the derestriction of roads and the policy of the Ministry of Transport in relation to speed limits. We are well aware of the sharp division of opinion on the relationship between speed and safety, but the leaflet contains some striking statements which deserve serious attention. If there is an answer to them it will be forthcoming from the motorists. The opening statement is challenging : " If an accident happens on a road without a speed limit, a pedestrian's chances of death are three times as great. If he is not killed his injuries are far more severe than on the road that has a speed limit. For all road users, twice as many deaths occur per road casualty on unrestricted roads as on the roads with speed limits. That is the disturbing statement made year after year by the Commissioner of Police for the Metropolis in his Analysis of Road Accidents in the London Traffic Area."

The Commissioner is also quoted in the current issue of *The Pedestrian* (the quarterly journal of the Association), as saying, in his report for 1951, that while London road casualties are 27.8 *per cent.* below those for 1938, the casualties for the rest of the country have fallen by only .7 *per cent.* " The contrast is so remarkable that it deserves the closest examination to discover whether safety measures are being taken in London that are neglected in the rest of the country," says the leaflet.

It is also asserted that the power to exempt lit-up roads from the speed limit has been abused so as to deprive " built-up " roads and those who use them of the protection the speed limit affords. The leaflet accuses the Ministry of Transport of using the " escape clause " to turn many of those very roads into through-ways for fast-moving traffic—exactly what Parliament intended to forbid.

It is argued that the view that a speed limit would cause traffic to pile up and would result in congestion, as was stated by the Advisory Committee in refusing the application of a local council has no foundation in fact.

In a paragraph on " The Perils of Crossing " the leaflet states : " With a speed limit traffic lights separate the traffic into blocks, leaving convenient gaps for pedestrians to cross in safety. Without a speed limit the private cars are always catching up to the next block of traffic so that the opportunities of a real gap in traffic for pedestrians to cross are greatly reduced."

Summer Extension for Licensed Premises

The application (*see* p. 495 *ante*) for an order of *certiorari*, to quash a special half hour order of exemption granted by Eastbourne justices in respect of licensed premises in the town, came before the Divisional Court on October 15. The exemption had been granted for the summer season, and fifty licensees were said to be affected. The applicant challenged the order, apparently, on the ground that the " high season," as it is called in Eastbourne, was not a " special occasion " within the meaning of s. 57 of the Licensing (Consolidation) Act, 1910.

The Lord Chief Justice said that the summer season ended on September 28 and any order which the Court made would have no practical effect. The Court could not discuss academic points. It, therefore, refused to hear the application.

The question of law, therefore, remains undecided. This will prove a matter of regret to those who were hoping that it would be authoritatively determined but it is not the first time that it has been laid down that the High Court will not give a ruling upon a point that proves to be academic.

Maximum Sentence for Attempting to Take and Drive Away

In the case of *R.* v. *Pearce* (noted at (1952) Weekly Notes 455) the Court of Criminal Appeal was considering the propriety of a sentence of three years' corrective training—passed upon the applicant following upon his conviction at quarter sessions of the offence of attempting to take and drive away a motor vehicle without the consent of the owner—in view of the fact that the maximum sentence prescribed for the completed offence was twelve months' imprisonment. The judgment of the court was delivered by Lord Goddard, C.J., who stated that it was not right in the case of attempts (though they might technically be common law misdemeanours and the offender might accordingly be technically liable to a fine or imprisonment) that the offender should receive a longer sentence than he could have received if he had been convicted of the substantive offence. His appeal was accordingly allowed.

Since it was decided in *R.* v. *Fussell* (1951) 115 J.P. 562 that courts of summary jurisdiction may deal with attempts to take and drive away a motor-car as an attempt to commit an indictable offence which is punishable on summary conviction, the problem of the maximum sentence the court may inflict has been the subject of some discussion, for the possible sentence for the completed offence is three months while the maximum sentence which a summary court may inflict for an attempt to commit an indictable offence is six months. The case before the Court of Criminal Appeal does not in set terms settle this question, but

the point is essentially the same, and there can be no doubt now that courts of summary jurisdiction should not pass a greater sentence than three months for an attempt to take and drive away a motor vehicle without the consent of the owner.

It is to be noted that s. 19 (9) of the Magistrate's Courts Act, 1952, which will come into force on June 1, next, states that a person convicted under that section of an attempt to commit an offence which is both indictable and summary, shall not be liable to any greater penalty than he would be liable to on being summarily convicted of the completed offence.

The Queen's Speech

Her Majesty Queen Elizabeth II opened Parliament on Tuesday, November 4, 1952, amidst scenes of traditional splendour. We deem this occasion fitting to echo the hopes and expectations (so gracefully voiced by the mover and seconder of the humble address of thanks) that Her Majesty will enjoy a long and happy reign.

The expected references to the Bills for the reorganization of the Iron and Steel Industry and for changes in the Transport Industry were present in the gracious speech and these will doubtless provide brisk contention. Of particular interest to local government bodies will be the measure dealing with the Town and Country Planning Act, 1947. In the course of the debate on the address the Prime Minister referred to the deterrent effect of the development charge upon enterprise but urged that the whole subject should be considered and discussed objectively. We hope that this exhortation will be carried out. The columns of *The Times* have already carried a considerable correspondence on the subject of the development charge. This indicates that a strong body of opinion (professional and otherwise) favours its total abolition. This solution has the advantage of being simple, anti-inflationary and popular although it certainly has its complications especially in relation to the problems of compensation and betterment.

Further measures will also be introduced relating to Local Government Superannuation and the date for depositing new rating valuation lists. The Minister of Housing and Local Government has already given notice that a Bill will be presented to further postpone the enforcement of the new valuation lists under Part III of the Local Government Act, 1948. It is a reflection on Parliamentary processes that continuous legislation to postpone the effect of previously enacted legislation should take place.

The Minister has announced that the date for the completion of rating revaluation is to be postponed to not later than April, 1956. The amending Bill will probably include amendments to provisions in the Local Government Act, 1948, relating to the assessment of dwelling-houses for rating. The objective is not to alter the pre-war value basis of assessment but to remove working difficulties. The Superannuation Bill will readjust the provisions of the 1937 Act to provide for widows' pensions benefits.

Perhaps the most noteable omission is a reference to the Rent Acts. Reform both drafting and substantial in character is now overdue but no doubt the government would prefer to deal with this formidable task as the tempo of house-building further quickens and as the Minister of Housing and Local Government has put it in the "climate of success."

Montreal's Public Health Services

The improvement in the health standards of Montreal in recent years shows what can be done by an intelligent development of the public health services in a city with a population of over a million and also special problems due to immigration. Last year the birth rate rose to 23.4 per thousand. On the other hand, the general mortality rate was held at 9.7 per thousand—the seventh consecutive year it has remained under ten. Whenever health statistics are studied, one of the first figures to be checked is the child mortality rate. Here Montreal showed a decrease. The rate was 45.9 per thousand live births as compared with 49.7 in 1950 and 70.3 ten years ago. These figures contrast sharply with child mortality rates at the beginning of the century when 300 out of every 1,000 infants died in their first year. The control of communicable disease is another field where the city of Montreal has made progress and diseases were reduced to a rate of 2.6 per 100,000. The widespread use of immunization has shown fine results in the battle against diphtheria and the number of deaths from whooping cough has been substantially reduced.

As elsewhere the health services have contributed to the lengthening of the average life expectancy—in Montreal by twenty years—during the last half century. With an older population there is consequently an increasing rate of chronic disease and it is felt that this is a problem of such social and community importance that it deserves special study. To this end, one of the medical officers has been assigned the responsibility of conducting a complete study of all aspects of the situation. We hope the result of this study will be made available to those who are also concerned with the problem in this country.

King Edward's Hospital Fund

The annual report of the King Edward's Hospital Fund deals in particular with the administration in the London area of the income derived from a capital of some £7 million but parts of the report are of general interest as showing pioneering effort which may well be copied in other parts of the country. Those responsible for administering the Fund believe that there is still a real need for an element of voluntary service in the hospitals provided at the public expense. It was for this reason that the Fund met the cost of the survey and report made by Mr. John Trevelyan. Some grants are made from the Fund towards helping with the provision of amenities but hospitals are also helped in other ways such as in improving nurses' accommodation.

During the year an application was received from the South East Metropolitan Regional Hospital Board for a grant towards an experimental scheme for dealing with applications for the admission of old people to hospital. The Board pointed out that the facilities provided by the hospital service would not in themselves solve the problem of accommodation unless alternatives to hospital and hostel accommodation were readily available. The Board had, therefore, developed a system intended to link hospitals with the various statutory bodies and voluntary organizations which provide not only residential accommodation but help at home: nursing, domestic help, meals on wheels, nursing requisites, laundry, shopping, social visits, sitters-up, and so on. A focal point had been set up in the London area of the Region linking the hospital groups in that area with the various organizations. The "focal point" worked closely with each of the group geriatricians and obtained any help which might be necessary to enable patients to be kept at home or discharged from hospital. Special staff was required for the investigation of the geriatric cases and a grant of £3,000 was made by the Fund for this purpose for a trial period of one year. The result of this experiment will be of interest to hospital authorities in other regions and we hope the Fund

will publish in due course a full report of its operation. Another instance of the way in which the Fund can help is in grants to district nursing associations towards the cost of necessities, such as sheets, night wear and towelling for patients. The Central Council for District Nursing received £2,600 last year towards the purchase of bedlinen for loan by district nursing associations to elderly patients. Grants were also made to nursing associations for administration and towards the improvement of nurses' accommodation.

Other pioneering work by the Fund, is in the establishment of Homes for the aged. The aim has been to provide the right type of living conditions for hospital patients when they reach a certain stage in their recovery from illness or accident. The Homes provided or assisted by the Fund are intended to help former hospital patients to live independent lives. At the same time they can enjoy more freedom than is possible in a hospital ward. It is not just a case of emptying a few hospital beds, or of taking from hospital a few bedridden patients whom no further treatment would benefit but who still need some nursing care. That is a matter for the hospital. It is an essential part of the scheme that each Home should be linked with a special hospital unit, so that patients can return to the hospital if necessary. The Homes are run by voluntary bodies which have done this difficult work with great satisfaction to the Fund. The experience in the running of six Homes shows that two or three months is the usual length of stay. The study of the patients admitted to the Homes has been interesting. Besides those ready to leave hospital but still needing a little more medical care and treatment before they go home, there are patients who are normally cared for in their own homes but whose families need a holiday. There are also those who waver for long periods between sickness and health, and who may, therefore, stay longer than others. The cost of each patient ranges from £4 15*s.* to £5 12*s.* a week. This compares favourably with the costs of most chronic hospitals, and provides more facilities for the patients than would be available for them in hospital. We hope the experience of the Fund in this connexion will receive wide publicity as the results have clearly been so satisfactory that when money is available to make similar provision elsewhere there should be a considerable alleviation of the present serious position whereby many aged sick persons cannot get into hospital because hospital beds are being occupied by patients who need not be there if they had somewhere else to go.

BASTARDY: "SINGLE WOMAN"

It was made quite clear by the decision in *Taylor* v. *Parry* [1951] 1 All E.R. 355; 115 J.P. 119, that a married woman living with her husband cannot be a "single woman" for the purposes of bastardy law. In the course of his judgment in that case, Lord Goddard, C.J., said: "There is nothing absurd in holding that a married woman whose husband has deserted her, or is serving a sentence of imprisonment, or has been sent overseas on military or naval service, is, for the purpose of the Bastardy Acts, a single woman, because she is living entirely by herself." In view of this, and the decisions in *Jones* v. *Evans* [1945] 1 All E.R. 19 and *Hockaday* v. *Goodenough* [1945] 2 All E.R. 335, the opinion had been held in some quarters that the term "single woman" might now be considered to apply to any married woman *bona fide* living apart from her husband and not merely for the purpose of obtaining an order, on the basis that the real test was whether cohabitation had completely ceased.

That point of view cannot be supported, in the light of the decision of the Divisional Court in *Mooney* v. *Mooney* (*The Times*, October 25) in which it was held that a married woman was not entitled to an affiliation order against her own husband in respect of a child of his born to her when she was married to someone else.

In the course of delivering judgment, upholding the decision of the justices who had refused to make an order, the Lord Chief Justice said: "although Parliament might have given any mother of a bastard child the right to take affiliation proceedings against the putative father, in fact Parliament had only given that right to a single woman. In mercy to women, Courts had construed the words "single woman" in s. 3 of the Bastardy Laws Amendment Act, 1872, to include a woman whose husband was absent from her against her will, for example, because he had left her or was a serving soldier or sailor or had been transported . . . It had been argued that as the appellant was no longer living with her husband, she became, for the purposes of the Act of 1872, a single woman *quoad* her husband, in accordance with a line of decided cases starting in about 1820. That was not so, however, and no case had gone so far as to decide that a married woman could be regarded as a single woman *quoad* her own husband: all that the old authorities showed was that a married woman whose husband was living apart from her through no fault of hers could be regarded as a single woman *quoad* third parties.

"The appellant had ceased to live with her husband through her own act, and would not return to him although he was willing to live with her again and to maintain the bastard child. It would be an anomalous state of affairs if the court in those circumstances were to hold that she was a single woman *quoad* her own husband."

The position, therefore, is that no man is liable to contribute towards the support of this illegitimate child. Assuming that the husband of the mother is its father, as does not seem to have been in dispute, the child could not be treated as a child of the marriage for the purposes of any order that might in certain circumstances be made under the Summary Jurisdiction (Separation and Maintenance) Acts or under the Guardianship of Infants Acts. Nor is the husband liable to maintain the child as part of his family as he would have been under the former poor law. In that connexion, the Lord Chief Justice has pointed out in both *Mooney* v. *Mooney* and *Taylor* v. *Parry*, *supra*, that when making the change from the former poor law to the provisions of the National Assistance Act, Parliament did not see fit to alter the bastardy law as it could have done and that the court could not enlarge the definition of "single woman" to the extent that had been suggested in argument.

It seems to us that here is another illustration of the need for statutory amendment of bastardy law. It is anomalous that the father of a child should be under no obligation to support it, and that the question whether the wife left her husband or her husband left her should affect the position as to the maintenance of the child under an affiliation order. In *Mooney* v. *Mooney*, if the woman had not married the father of her child she could have applied for a bastardy order without any difficulty, and since by marrying her the father has apparently become divested of liability that also seems anomalous.

TOWN AND COUNTRY PLANNING ACT REFORM

I — THE PLANNING PROVISIONS

By GRAEME FINLAY, M.P., *Barrister-at-Law*

Beside the criticisms made of the Financial Provisions in the Town and Country Planning Act, 1947, those which relate to the planning provisions pale into insignificance.

The nation were prepared at the end of World War II to accept the necessity for an effective system of planning of land use. They, as a whole, were aware of the desirability of avoiding the social evils and administrative difficulties which sprang from that extraordinary chapter in the world's economic history which started with the industrial revolution in Great Britain. In the year of the Battle of Waterloo (1815) the great bulk of the population of Great Britain worked on the land or were in some way connected with agriculture. In the following hundred years the tremendous growth of industry led to intense development of the most haphazard kind. Builders built on any land which seemed most convenient to them. Houses were crammed together, factories were jumbled up with them and seams of coal and deposits of gravel were built over. Moreover many acres of good agricultual land were lost to the nation, acres which would be invaluable today. It was not until a hundred years of this type of haphazard development had run their course that the first piece of planning legislation was placed upon the statute book, the Housing and Town Planning Act, 1909. In the years between the two World Wars various additional pieces of planning legislation were passed but progress was not spectacular. In particular the Town and Country Planning Act, 1932, although it enabled a number of advances to be made, (it was, for example the first Act to contain specific provisions for protecting trees and woodlands from felling and for preserving buildings of special architectural and historic interest), had considerable defects.

The voluntary planning schemes enjoined by the Act did not effectively control short term commercial operations or land uses which did not require buildings. Nor were they positive in character because although planning authorities were enabled to prevent development from being carried out they were given little or no inducement to do the work themselves or to arrange for it to be done. There were, as well, substantial drawbacks in regard to the machinery bringing a scheme into operation which was both dilatory and cumbersome.

Local authorities, too, were obsessed by the prospect of being liable to pay compensation if they refused permission to carry out development. This resulted in planning being more ineffective than it should have been. At the time of the passage of the Act of 1943 only four *per cent.* of the country was subject to fully operative planning control. Some seventy *per cent.* of the country was subject to interim development control and some twenty-six *per cent.* of the country was subject to no control at all.

World War II besides greatly increasing the difficulties of effective planning also brought a great deal of new thinking on its problems and the issue of the Barlow, Uthwatt and Scott Reports. The Act of 1947 which was based on those Reports received very curtailed discussion in the House of Commons where it received its first reading on January 7, 1947. Read a second time, after a two-day debate, on January 30, 1947, it went " upstairs " for detailed examination in Committee on February 18. It had been in Committee for only two weeks when the Government carried a " guillotine " motion requiring that it should be reported to the House by April 2. Under this motion a timetable was drawn up for each sitting, which was brought to a close two and a quarter hours after its start by the fall of the guillotine. This resulted in all Government amendments being incorporated in the Bill whilst all opposition amendments to the guillotined clauses lapsed. In the result over fifty of the 120 clauses and six of the eleven schedules were not discussed at all and although this was to some extent rectified in the House of Lords the general public never received a full picture of what was being done by Parliament. They were certainly not helped by the highly technical character of the subject with its (to the layman) mysterious expressions like " Betterment," " Conurbation," " Neighbourhood Unit " and the like, and even to the non-specialist lawyer the Act has proved to be a regular bug-bear.

The planning provisions of the Act are incorporated in Parts I—IV whilst the far more criticized financial provisions are to be found in Parts VI and VII.

It was not long, before public discontent manifested itself with the planning provisions mainly, however, directed at what was undoubtedly the over-detail of development control and the procedure for getting planning permission which was far too cumbersome. At no time was the general principle of planning control widely assailed, it was the procedure which was found at fault. In 1950 the pressure of public opinion on this score forced the Government to relax the over-detailed control of development by expanding the range of development which could be undertaken without permission. Farm buildings were freed from planning control and householders were able to carry out minor improvements and alterations to their houses without having to apply for permission (or pay development charge).

The Town and Country Planning General Development Order and Development Charge Applications Regulations, 1950, (S.I. No. 728, 1950) show how narrow was the range of permitted building operations before they were issued. It was, for example, necessary to obtain permission for the erection of a garage, stable, horse-box or coach-house within the curtilage of a dwelling house or to build a gate, fence or wall abutting on a road used by traffic. It was even unlawful to paint the outside of a building if the effect of this was such as materially to alter its external appearance.

When the question of the reform of the planning provisions under the Act is being considered it is common ground that there must be a measure of planning control to resolve in the public interest the conflict of land use. In a crowded country like this some such system is clearly necessary to avoid a repetition of the development in the last century and not to speak of some of the more undesirable developments in this.

Section 12 of the Act of 1947 gave " development " a spacious definition . . . " the carrying out of building, engineering, mining or other operations in, on over or under land or the making of any material change in the use of any buildings or other land." This taken in conjunction with the General Development Order of 1950 expanding the categories of " permitted development " has worked reasonably efficiently but it may be doubted whether this is not a matter which should be more finely defined by statute. At present this is freely alterable by statutory instrument. Nor is it desirable to change the local authorities which were created planning authorities under the Act of 1947. The previous arrangements under the Act of 1932 which constituted county district councils as local planning authorities were not a success. The planning authorities worked

in isolation and this resulted in the production of unrealistic and badly balanced planning schemes, which were not fully improved by the constitution of Joint Committees for formulating schemes over wide areas. The most cogent criticisms, however, are those which are directed at Procedure under Inquiries. The great bulk of cases where land is compulsorily acquired nowadays take place in accordance with the procedure laid down by the Acquistion of Land (Authorization Procedure) Act, 1906. This involves the confirmation of the Compulsory Purchase Order by the Minister of the Department concerned. The confirming authority may hold a public local inquiry under s. 5 of the Act and must take this course if there is an objection to the proposal and the objection is not withdrawn (s. 3 (3)). After that the Confirming Authority must consider the objection and the Report of the person who held the Inquiry (Part I of Sch. 1).

A parallel procedure is that under s. 15 of the Act where the Minister shall on an appeal against refusal to develop land, if either the applicant or the local planning authority so desire, afford to each of them an opportunity of appearing before and being heard by a person appointed by the Minister for the purpose. There is no appeal from the decision of the Minister on such a matter (s. 15 (3)).

From the wording of this section it is clear that the hearing is not required to be by public local inquiry although, in practice, the hearing normally does take that form. It was decided that although the Minister's duty in such a case may be a quasi-judicial one its exercise must be considered in the background of the administrative duty. As Scott, L.J., put the matter in *Horn* v. *Minister of Health* [1936] 2 All E.R. 1299 " where public departments are given . . . quasi-judicial duties as well as administrative duties, the need of their carrying out their quasi-judicial duties in strict accordance with natural justice must always be considered in the light of their administrative duties also. The administrative duties have to be carried out as part of the policy of Parliament imposed upon the Minister by the statute he is administering, and Parliament must be taken quite deliberately to have decided that the performance of his administrative duties under the Act is compatible with the exercise of his quasi-judicial functions." Quasi-judicial functions as the learned judge pointed out in the normal course of events involve following the requirements of natural justice, *i.e.*, the members of the tribunal must not be judges in their own cause or have any interest or bias in the matter, and each party must be given an opportunity of stating his case. In the pursuance of administrative duties, therefore, the requirements of natural justice receive a lower priority should the two conflict.

In these days of the stretching of the so-called doctrine of mandate to quite farcical limits and the increasing tendency of Governments to place the widest powers in the hands of Ministers this position is indeed a terrifying one for the individual subject.

For example, the Inspector conducting the inquiry may be the employee of the Minister holding it and responsible for taking the decision or at any rate in close touch with the officials of his department. Indeed under s. 37 of the Act the Inspector will be the actual employee of a Minister engaged on the compulsory acquisition of land for his department. Here, certainly, we have the Minister as judge of his own cause.

The phenomenal growth of administrative law and the multiplication of quasi-judicial tribunals in the last twenty years causes one to reflect whether the citizen of England is not unfortunate in that he has no *droit administratif* competently administered by a *Conseil D'État* to protect his property and liberty of action against the activities of the executive. In an interesting series of articles in *The Times** Mr. C. J. Hamson, Reader in Comparative Law in the University of Cambridge, explained the operation of the Rule of Law in France in relation with the *Conseil D'État* and the executive. In saying that it was difficult to conceive a parallel in modern England, though the early history of the King's Courts in many respects offered an interesting analogy Mr. Hamson pointed out: " It is as if, *per impossibile*, the Treasury in conjunction with say the Privy Council were to ' feel a concern ' for a due process of administration and *de facto* without in any way interfering with whatever powers may still remain to the High Court were to hear and determine, publicly and in proper form the plaints of subjects alleging that they were aggrieved by the exercise of administrative powers, discretionary or not or by the decision of a specialized tribunal. That any such suggestion should be regarded as fantastic is the measure perhaps of the difference between a country which has an administrative 'rule of law' and one which has not . . . "

All this provides much food for reflection. It may be that whilst due to differences in historical development it is impossible to plant a *Conseil D'État* in English soil these could and should be created an Administrative Division of the High Court of Justice to protect the individual subject against the Executive. At any rate Mr. Hamson's description of the Form and Function of the *Conseil D'État* is well worth study.[1]

The general defects of Ministerial Inquiries are more or less well-known. The Inspectors are conscientious and qualified men who do their best to produce a just result within the limits permitted by the system, which was not so very long ago (and not without reason) described by the then Attorney-General as giving the chance to " blow off steam." This is far from being a compliment and there is considerable force behind this description where the Minister concerned is judge in his own case through the appointment of his departmental inspector to conduct the Inquiry. In some cases, however (for example where he has to decide between the competing claims of the county planning authority and the developing owner), the Minister is not put under the same temptations of self-partiality and can reach his decision in a comparatively detached manner. Notwithstanding the generally conscientious and patient manner in which inspectors conduct the proceedings of public local inquiries there is considerable dissatisfaction on the part of the public due to the fact that they suspect that Government Departments and other official bodies have more than their fair say, not openly at the local inquiry where their representatives may be subjected to cross-examination, but privately behind the scenes. They also resent the association of the Inspector either directly or indirectly with the department concerned as indicated above and feel that they should not be denied access to the Inspector's Report. They further contend that provision should be made for appeals on points of law arising from planning applications. Complicated questions of law can and frequently do arise in these and it is most desirable that this deficiency should be remedied.

The first difficulty indicated above could be got over by legislation compelling Government Departments and other official bodies to deploy their cases publicly before the tribunal. It may be that planning decisions and questions as to compulsory acquisition of land have their administrative aspects which make them different from disputes between private individuals but there are also many disputes (*e.g.*, actions by employees against their employers for negligence involving breaches of the safety provisions of the Factories Acts) where disputes between private persons involve administrative considerations. It is in this connexion that the want of an English system of *droit administratif* becomes apparent, and there seems to be

*Of Tuesday and Wednesday, February 20 and 21, 1951.

[1] [*See* p. 372, *ante*, where this matter was discussed. *Ed., J.P. and L.G.R.*]

no reason why an Administrative Division of the High Court of Justice could not supply this deficiency and gradually establish a tradition and body of principles of its own. It is said that to establish such a Court would destroy the principle of Ministerial responsibility but the principles of fairness and natural justice ought to be observed in administrative proceedings as well as judicial, and, in any event, the tremendous weight of administrative decisions has made the doctrine of Ministerial responsibility almost entirely fictitious. In these days a Minister who is personally directing even a tenth of his departmental transactions would be almost superhuman and although he can be questioned and challenged in Parliament as to the actions of his department it may be doubted whether this provides the most effective method of control of executive acts. In any event, the day to day administration of the many nationalized Boards, armed with most extensive powers touching the interests of the subject, may not even be challenged in this way. As an alternative some critics have advocated that there should be a kind of a Corps of Inspectors, not drawing their pay under any one department, but formed into a species of Planning Tribunal presided over by a legally qualified chairman whose duty it would be to nominate the Inspector or Inspectors to conduct the cases. If such a Tribunal were to be constituted the chairman of the Lands Tribunal would seem an obvious choice for such a trust.

There is a strong feeling that there should be legislation to preserve a right of access of interested parties to the Inspector's Report at present protected from public scrutiny, and whilst it may be that there are sometimes weighty reasons (*e.g.*, security grounds) why such a report should be privileged, in most cases it seems a Government Department should not be protected, any more than any other party.

It would also be a simple matter to supply a right of appeal on a point of law to the High Court and this should be done. Finally a Government Department or a local authority should conform to planning control like private individuals. There have unhappily been many cases of transgression of the best principles of planning by those very public bodies whose duty it should have been to set an example. It cannot be right, for instance, for a housing authority to build a housing estate on Green Belt land. The law should efficiently bind the strong as well as the weak.

THE ANNUAL REPORT OF THE NUFFIELD FOUNDATION

The report of the Nuffield Foundation for the year ending March 31, 1952, is contained in a volume of 160 pages and is of general interest as showing the grants totalling £506,774 which were given over a very diverse field and especially in research to advance health and social well-being in the United Kingdom and overseas. Most of the matters mentioned in the report—interesting although they are—are beyond the scope of our columns but in some respects the work of the Foundation is of interest to local authorities as having repercussions in their health and welfare spheres, and also in connexion with town and country planning. One of the functions of the Foundation is to assist the scientific study of the structure and operation of human society and under this heading of the report there is an account of a research being undertaken by the Department of Applied Economics at Cambridge on what is called " Social Accounts " which it is thought will provide information of value not only to those engaged in various departments of the University but also to local authorities concerned with town and country planning. It is suggested in the report that, in part, the lack of economic and social research directly or indirectly relevant to town and country planning is due to the fact that a new concept is only gradually being accepted. But as pointed out by the Committee on Qualifications of Planning " planning is now primarily a social and economic activity." It is felt, therefore, that definite suggestions about the contribution which the social sciences could and should make to town and country planning can only be derived from a far closer study of the processes, tasks, and ideas in this field than has so far been undertaken ; and that planning itself needs to be investigated. The attempt to forecast future requirements has to be made but there are many difficulties. It is hoped that the two-year study of the contribution of the social sciences to the principles and techniques of town and country planning and the survey of the processes of planning will be helpful. The Foundation has, therefore, made a grant of £4,000 for this purpose to the Department of Town Planning at University College, London. Another interesting survey which is being sponsored by the Foundation is one by the Institute of Statistics at the University of Oxford on personal incomes and savings.

THE CARE OF OLD PEOPLE

The section of the report relating to the care of old people is of special interest to welfare authorities. In this field, the Foundation acts through the National Corporation for the Care of Old People which was set up five years ago by the Foundation and the Lord Mayor's of London's Air Raid Distress Fund. The sum of £152,175 was allocated by the Corporation during the year for grants to various organizations making a total of £628,154 for the first four years of its existence. As the Corporation only meets a part of the cost of any project which is assisted it is estimated that the total expenditure in new privately provided homes, clubs, and other welfare schemes for old people must be in the region of £2 million in the last four years. By no means all such schemes are aided by the Corporation so the total of voluntary effort in the whole country must be considerably larger. This is, in the words of the report, " a fine tribute to the spirit of private obligation and initiative displayed towards the needs and problems of those old people who cannot fend for themselves." It is, therefore, regrettable that the Corporation should have cause " to point to the refusal of a few local authorities to use, and in turn to assist, reputable voluntary bodies in carrying out work for the welfare of old people." The Foundation has always been convinced that if adequate provision is to be made any schemes proposed and tried must be such as to keep within the financial and other resources of the community ; and that extravagant pioneering is of little general benefit if others cannot afford to follow.

As pointed out in previous reports the administrative gaps which exist in the provision for old people can only be filled by joint efforts and some give-and-take from both sides, for example in establishing homes for the infirm who are not the clear responsibility either of the hospitals or of homes for the able-bodied. But, as emphasized in the present report, this need for co-operative planning, and action, extends to the whole field of the welfare of the elderly. In any area, inadequate local-authority provision of communal or domestic care of the elderly is bound to result in large—and largely unnecessary—demands for beds in hospital, simply because old people cannot be cared

for in any other way ; and even within a local authority's own domain, the amount of adequate and properly designed housing and help available to keep old people reasonably secure in their own homes or the houses of relatives will have a direct effect upon the numbers who, from fear of final neglect at home, seek admittance to communal homes. So, as explained forcibly in the report, " there is a kind of chain-reaction whereby inadequacy or failure in one part of the whole range of services to old people throws an increase and improper burden on other parts. Because the different parts are the statutory responsibility of different bodies, and because all bodies are looking to economics within their own sectors, the dangers of partial failure or serious breakdown are likely to grow." The ultimate aim must be to have in every area a comprehensive service with all its integral parts closely linked. As a guide to what is needed and what can be achieved the National Corporation is seeking to start in one or two areas, the work of building up a complete and comprehensive service. For this purpose the co-operation of enthusiastic statutory authorities and voluntary agencies is required. We sincerely hope this will be forthcoming.

MISCELLANEOUS INFORMATION

CRIME PREVENTION CAMPAIGN

The following is a report upon a campaign conducted by the City of London Police.

For some years past the two major forms of crime in the City of London have been (1) petty larceny from inside office, shops, warehouses, etc., and (2) breaking offences.

The former, which for some years past has consistently represented about fifty *per cent.* of the City's total crime, came to be generally accepted as unpreventable from the police point of view, by reason of it taking place " out of sight of police."

Breaking offences have represented a further twenty *per cent.* to twenty-five *per cent.* of the total crime figures.

The Acting Commissioner, Captain H. P. Griffiths, after consultation with his senior officers, decided early this year that some attempt should be made by the Force to reduce these figures by endeavouring to educate the public in taking greater care of their property and adequately safeguarding their premises. He decided to approach the problem by way of an organised campaign with all branches of the Force, including the women police participating.

In April last, therefore, he formed a Prevention of Crime Squad of experienced C.I.D. officers under a Dective Superintendent, to act as the spearhead of the drive.

A leaflet giving advice on the security of premises, precautionary measures in regard to property left in offices, warehouses, shops, etc., taking cash to and from the bank and so on, was printed, and it was decided to deliver these to the public by personal approach.

Crime Prevention Campaigns have from time to time been conducted by a number of police forces, but generally on the lines of Crime Exhibitions, Crime Weeks, displays in large stores, etc., thereby in effect inviting the public to come to the police. It was decided, however, to approach the problem on the basis of the police carrying the campaign to the public.

Therefore, early in June last, following very helpful press publicity, the Squad, assisted by a number of uniformed sergeants and women police, went into intensive action calling upon heads of business houses and shops, delivering the leaflet, engaging in a personal talk on the subject and offering advice on any internal or external security problem, in effect acting in the role of the " Courtesy Cop on Crime."

It was realized that with a day time working population of over 500,000 persons, the task of a personal call at all premises in the City would be very protracted, and it was therefore decided to cover some of the larger organizations such as Banks, Insurance Companies, etc., and the larger buildings by post, to be followed later by a personal call by a Crime Prevention Officer, in order that the leaflet could be distributed in the shortest possible time.

Some 3,600 letters containing the literature were accordingly sent by post, and so far about 4,500 personal calls have been made by Crime Prevention Officers, who are at the moment following up on those organizations previously circularized by post, by making a personal call, and so far some 18,000 leaflets have been distributed.

The whole of the Force has received instruction regarding the type of advice it is desired to impart to the public, and advised to make personal approach in the street at every opportunity to encourage persons to take precautionary measures necessary to prevent a crime being committed in relation to property left unattended in cars and vans, unattended cycles, removal of builders' ladders from building or repair sites, etc.

The reception given to Crime Prevention Officers and the co-operation shown by the public, almost without exception, can only be described as astounding, and most have shown the keenest interest in our campaign and desire to help them.

One of the suggestions in our leaflet is that consideration be given to the appointment of a member of the staff—in each Department if there are several—to act as security officer and as liaison with the police, who would be responsible for the proper security of the premises, and to have an occasional check on property such as handbags being carelessly left unattended in their premises, safe keys left in unlocked desk drawers, and remind those responsible of their duty to take adequate precautions.

This suggestion, if properly carried out, it was felt, would be almost the complete answer to the City's most prevalent forms of crime.

Records have been kept by means of a large scale crime map and card index, and these records show that so far, over 400 housekeepers, security officers and other business officials have undertaken to act in liaison with the police in matters of crime and crime prevention, and there are well over 300 cases in which improvements have been made or promised on our advice in regard to security, such as the fitting of warning bells in offices, burglar alarms, bars placed across fanlights, barbed wire erected on low walls and outside premises easily accessible through bombed sites, steel grilles fitted to shop windows, observation panels in office doors, faulty locks and bolts replaced, staggering of lunch hours so that offices are not left entirely unattended, valuable goods removed from window displays, times and routes varied when taking cash to and from Bank, and many others.

Results so far as petty larceny from offices and other buildings is concerned, are highly satisfactory. The five months May to September, 1952, during which the campaign has been in active operation, show an average thirty-five *per cent.* decrease on the five corresponding months of 1951, although of course it is not possible to claim that the whole of this reduction is due to the campaign. It is an indication, however, bearing in mind the splendid co-operation shown by the public, that personal approach can pay handsome dividends.

Breaking offences also show signs of decreasing.

When the present phase of the campaign has been completed and all premises in the City have been covered by a personal call, varied forms of propaganda will be considered, as experience has shown that the public require to be reminded from time to time of the necessity of constant precaution-mindedness.

BRITISH " DISPLACED PERSONS "

The Hon. Member for Hendon, North (Mr. Ian Orr-Ewing), did well to raise this matter in the House on the Adjournment last week. Every Member of Parliament has received in his mail representations from this unfortunate category of people who fall between two if not more stools in their quest of housing. Normally such persons are displaced because they have lived for a long period—a qualifying period—in one area and then for some reason (*e.g.*, marriage, an increase in family or a change in work) they have to move out of that area and into a new area. Under these circumstances the new local authority cannot accept them on their list (because most of them have a qualifying residential period) whilst the old one feels that they are no longer its responsibility. Besides citing an illustration of the typical case where a family moved from their parental authority into another housing authority's area Mr. Orr-Ewing drew attention to the position of the ex-serviceman returned from overseas and the caravanner and concluded by entering a plea for old people who would often welcome a chance of moving into something cheaper and easier to manage. Mr. Hylton-Foster (York, C.), intervened to mention the rarer case of the retired prison officer who had serious difficulty in finding anywhere to go under local authority regulations.

In replying the Parliamentary Secretary to the Ministry of Housing and Local Government (Mr. Marples) whilst sympathizing with the various points raised pointed out that the Housing Act of 1936 gave the housing authority statutory responsibility for the management and control of their houses including the selection of their tenants and that the Ministry could only give them guidance. That guidance on how to deal with the various categories of " displaced persons " had been specifically given was evident in the Minister's references to a booklet called " Selection of Tenants " based upon a report by the Central Housing Advisory Committee. In particular, special guidance

has been given respecting families evicted from their accommodation including servicemen (Circular No. 8 of 1952) and it is right that those men should not be prejudiced in their applications for housing accommodation by reason of their service.

However, as the Minister pointed out, informal interventions were practically always successful in securing the removal of hardship by a local authority when ordinary administrative machinery failed. This method was particularly successful in extraordinary cases (*e.g.*, a family in which a crippled child could attend a special school only if he lived in a different part of the country).

It is to be hoped that local authorities will make fuller use of the pool of advice and information provided by the Central Housing Advisory Committee. At any rate it is good to know that the special requirements of old people are being actively canvassed by the Ministry and that the Continent is being scoured for designs for homes which obviate the climbing of stairs and the cleaning of too many rooms. We hope to see "The Old Peoples Bungalow" in ever increasing production to cope with this problem.

MAGISTRATES' ASSOCIATION MEETING AT KENDAL

A former Governor of England's first prison-without-bars, now Assistant Commissioner of Prisons, Mr. J. E. Henderson, addressed a conference of magistrates from all parts of Westmorland, the West Riding of Yorkshire and Furness area of Lancashire, at Kendal recently.

Arranged by the Magistrates' Association, it was the first conference of its kind in Westmorland and Mr. Claud Mullins, former Metropolitan stipendiary magistrate, spoke at the morning session on "Domestic Cases."

Because he believed there was a close link between trouble between husband and wife and juvenile crime, Mr. Mullins said magistrates should wherever possible make courts as informal as possible and interim orders up to three months in the hope of reconciliation. He objected strongly to the use of a witness box for applicant and respondent and advocated hearing such cases round a table with the parties and magistrates sitting at the same level.

Mr. Henderson defended the system of open prisons, maintaining that the experiment, begun at Leyhill in Gloucestershire, was a great success.

A local magistrate, Mr. K. Dobell of Patterdale, Ullswater, referred to the proposal to establish a prison-without-bars at the nearby Bela Camp and several in the audience asked questions about murderers being accommodated in open prisons.

OTHER PEOPLE'S LAW

From time to time we receive from friends oversea the periodical Law Reviews of their respective countries and states, and we intend neither flattery nor condescension in saying how interesting and occasionally diverting we find their contents.

Of the states in the U.S.A. which apply the principles of the English common law, Texas and Minnesota both regularly send us their reviews, the one published by the School of Law of the University of Texas and the other the Journal of the Minnesota State Bar Association. Despite the length of time that has elapsed since the Declaration of Independence, admittedly followed at a later date by the incorporation of these two sovereign states, it is noteworthy how comfortable in most cases we feel with their law and the reasoning underlying their decisions. Every now and again, however, we are reminded of the difference between them and ourselves as the result of their written constitution, and the use of such expressions, evidently familiar to them, as "the full faith and credit clause." We sympathize with the book-reviewer who rather wryly doubts a recent claim that the American lawyer can in ninety-nine cases out of one hundred in daily life advise his client with confidence in regard to the applicable law when there is no controversy about the facts, and observe the freedom with which writers criticize recent legal decisions.

South Africa, too, sends us the *Law Journal* of the Faculty of Law of Witwatersrand University, and although theirs is the Roman-Dutch system, it is a little surprising to the uninitiated how much the Union makes use of English principles. In an article on *mora* (delay), for instance, in their August issue, we read a most useful dissertation on the effect of the well-known English stipulation that time is of the essence of the contract. Reading in the same issue a review of a newly published work on the laws and constitutions of the Commonwealth we cannot help sharing a smile at the story of the Australian legislature who in too-faithfully copying the English Sale of Goods Act solemnly included the section stating that the statute was not to apply to Scotland, and from the same article learn with something of a start that in New South Wales the fusion between law and equity has still not taken place, with all the attendant archaisms of procedure.

Long may these refreshing and thought-provoking publications continue to reach us, for surely there could be no more felicitous way of spreading the light of law.

LAW AND PENALTIES IN MAGISTERIAL AND OTHER COURTS

No. 94.

PRIVATE STREET WORKS ACT, 1892

At Middleton (Lancashire) Magistrates' Court on October 24 last, objections raised under s. 7 of the Private Street Works Act, 1892, by the frontagers of Wood Hill, Middleton, to the proposed sewering of the street under s. 6 of the Act were heard. The objections were as follows :

1. That the proposed works were unreasonable.
2. That the estimated expenses were excessive.
3. That the street was a highway repairable by the inhabitants at large.
4. That the street was already sewered to the satisfaction of the authority.

For the local authority the deputy town clerk (Mr. R. P. Crompton) contended that the fourth objection was not admissible as a separate objection as it was not specified in s. 7 of the Act. Evidence was given that the street was not in existence before 1836 by the production of an 1840 map and that it had not subsequently been enrolled at quarter sessions under s. 23 of the Highway Act, 1835. This evidence was not disputed, and the objection was virtually dropped.

The first and second objections were debated at considerable length and involved two important issues. The proposal of the corporation was to insert a fifteen inch sewer which would serve to carry away foul and surface water from part of the newly formed Bowlee estate and which would at the same time serve to drain the surface water from Wood Hill. In view of this the frontagers were only being charged with the cost of a nine inch sewer which was adequate for the needs of the street. Counsel for the objectors contended that it was unreasonable that this work should be done at the frontagers expense and quoted the words of Salter, J., in *Chester Corporation* v. *Briggs* [1924] 1 K.B. 239 : "In considering an objection under s. 7 (*d*) that the proposed works are unreasonable, the justices are entitled to consider, among other things, whether the proposed works are reasonable in the sense that it is reasonable that such works should be done at the frontagers' expense."

It was contended on behalf of the corporation that the words of Salter, J., were *obiter* and that they were definitely disapproved in the case of *Allen and Another* v. *Hornchurch U.D.C.* [1938] 2 K.B. 654, which was decided on the point whether the justices had power to take away the discretion of the authority under s. 6 of the 1892 Act. Also quoted in support was the case of *Acton* v. *Watts* (1903) 67 J.P. 400, where it was held that although the local authority were making a sewer larger than they needed for the drainage of another part of their district, they might still recover the expenses provided that they did not charge the frontagers more than the cost, which would have been expended on the works required for the purposes of the street itself, and specified in the original notices.

The second important objection was based on the existence of an existing sewer. Counsel for the frontagers contended that as it was a point of law that a sewer once made to the satisfaction of the authority must satisfy the requirements of the section, the fact that a sewer had been in the street presumably for a long period without any objection from the authority was sufficient for them to be deemed to be satisfied.

For the local authority, it was contended that there was no sewer for the street, all that there was was a sewer for the houses, a sewer which did not go up the street but towards the houses. There was no sewer to drain away the surface water of the street. As far as the houses were concerned there was no one system of drainage, four of the houses draining round the back and not into the street at all. The cluster of seven cottages and a garage at the bottom half and on one side of the street were not served by a sewer for the street, but a sewer for the houses. The deputy town clerk reminded the court that Kekewich, J., had said in *Handsworth District Council* v. *Derrington* (1897) 61 J.P. 519 : "What I apprehend is meant by a street being sewered is that it is sewered as a street, as a certain space devoted to traffic with an interval between the houses and as comprising, of course, the houses

on either side. I think it would be wrong to say that a street is sewered when all you have is a series of sewers draining some of the houses on one side in one direction and the houses on the other side in one direction not forming part of one system."

It was also contended for the objectors that Wood Hill was a " growing street " as described in that case. Counsel for the objectors quoted in support of his argument *Bonella* v. *Twickenham Local Board* (1887) 20 Q.B.D. 63, *Rishton* v. *Haslingden Corporation* [1898] 1 Q.B.D. 294 and *Handsworth Local Board* v. *Taylor* (1894) 58 J.P. 9, on the last of which cases the corporation also relied.

Counsel for the objectors called a professional witness to state that the existing system was adequate for the sewerage of the street.

Evidence was also given that the existence of this sewer had only recently been discovered and that the corporation had not investigated its direction before instituting proposals. It was not shown on the sewer map required to be kept under s. 32 of the Public Health Act, 1936, and from this counsel for the objectors contended that under subs. (3) of this section, this must be a public sewer for the reception of both foul and surface water.

After examining the site the chairman of the bench announced that the application of the corporation would be allowed.

No. 95.

A LANDLADY IS HEAVILY PUNISHED

A woman who purchased the lease of a sixteen roomed house six years ago appeared at West London Magistrates' Court on September 29 last to answer more than forty summonses each alleging that between October, 1951, and January, 1952, she had overcharged three of her tenants in her house contrary to s. 4 of the Furnished Houses (Rent Control) Act, 1946.

For the prosecution, it was stated that the rents of the three rooms in question had been fixed by a local rent tribunal at £1 15*s*., £1 12*s*. 6*d*., and £1 5*s*., but defendant had charged £2 5*s*., £2 2*s*., and £2 2*s*. In two instances all of the overcharges had been refunded to the tenants.

The defendant in June, 1948, had been fined £50 and ordered to pay £10 10*s*. costs for a similar offence and a severe warning was sent to her by Kensington Borough Council in October, 1951, but despite the warning the offences charged had been committed subsequently.

For the defendant, who pleaded guilty to all charges, it was stated that after buying the lease of the house six years ago she started a boarding house after furnishing and decorating at great expense. The defendant had been successful for a time but then became so ill that she had to give it up and the only thing left for her to do was to let the house out in rooms.

Defendant thought that the rents fixed by the tribunal were so low as to prevent the house being an economic proposition and she had been left with what now amounted to an obsession that she had been treated unfairly.

Mr. R. E. Guest, the learned stipendiary magistrate, pointing out that defendant had " ridden roughshod through the Rents Acts " imposed fines totalling £189 and ordered the defendant in addition to pay £9 9*s*. costs and to re-pay one of her tenants £5 10*s*. R.L.H.

COMMENT

Mr Walter Parkes, M.A., senior assistant solicitor, Kensington Borough Council, to whom the writer is indebted for this report, comments that although the case in many respects runs true to type it is doubtful if so heavy a penalty has been previously imposed by any court.

There is of course ample power given by s. 9 of the Act of 1946 to punish sharply an offender for by that section it is provided that a person who offends under s. 4 is liable to six months' imprisonment and a fine of £100 and in addition may be ordered to re-pay to a tenant any sum overpaid by the latter.

PENALTIES

Stratford-on-Avon—October, 1952—selling intoxicating liquor without a licence (eight charges)—fined a total of £160 and to pay £24 costs. Defendant, a local hotel proprietor, was stated to have thought it permissible to purchase the liquor himself from neighbouring public houses and then to sell it in his own hotel to customers.

Swansea—October, 1952—breaking into two gas meters and stealing £4 9*s*. 7*d*.—three months' imprisonment. Defendant gave himself up at the local police station and stated that he had had about £9 and spent the money on drinking. Investigation showed that he had over estimated the amount stolen by him.

Oxford—October, 1952—having in possession for sale food unfit for human consumption—fined £10. Defendant, proprietor of an auction store, was found to have on premises fifty-seven tins of cod-roe spread and thirty-seven tins of sardine-spread all of which were in so bad a condition that they were buried on a magistrate's order.

Staple Hill Juvenile Court—October, 1952—causing 25*s*. worth of damage to a cherry tree by cutting it. To pay cost of replacing tree and 4*s*. costs. Two years' probation. Defendant, a fourteen year old boy, completely severed a tree planted last year to commemorate Festival of Britain.

REVIEWS

Elements of Estate Duty. By C. N. Beattie. London : Butterworth & Co. (Publishers) Ltd. Price 22s. net.

Estate Duty is a subject with which every solicitor must be familiar, and with which every client has to acquire some acquaintance from time to time, either when making his own will or when winding up the estates of friends or relatives. It is a subject which, in its nature, must (like income tax) be difficult. The principles can be stated in small compass, but the infinite variety of human circumstances has led to elaborate provisions to secure fairness, and avoid evasion in the application of those principles. Although the present work is described as " elements " the learned author does not pretend that it can be easy reading. The subject in its nature requires careful thought and attention to detail. The work begins with a short historical introduction, showing that these duties have an interesting and respectable pedigree. The description of the present form of estate duty in this country includes the principles of accountability and aggregation, which experience suggests are often a source of difficulty to beginners. These topics are dealt with also in more detail in later chapters. The operation of the " charge of estate duty " is explained, whether property passes on death or is deemed to pass on death, the latter class arising both under the Finance Act, 1894, and the newer Finance Act, 1940, which (it will be remembered) contains provisions to circumvent some of the more ordinary methods of avoiding tax, which had been practised before the second world war. " Exemptions " has a short chapter and so has " Gifts *inter vivos*." Special topics dealt with comprise joint tenancies, life policies and interests under settlements, and several others. In fact every point which the student needs to pick up in his attempt to master the subject is dealt with adequately, but not too fully for him to grasp with due diligence. The form of the book is pleasing, the size manageable, and the type clear. Where necessary the effect of decisions of the courts is stated in the text, but most of the statements made depend on statute, or on cases which can be adequately mentioned in a foot note. The book does not attempt to compete with major works, amongst which *Green* stands pre-eminent. It claims to be no more than a student's book, but the student who has been required by his tutors to master it will be as well equipped as he needs to be for the average case, and sufficiently prepared to pursue further researches when any matter crops up of special difficulty.

Codd's Last Case, and other Misleading Cases. Reported and edited by A. P. Herbert. London : Methuen & Co., Ltd. Price 10s. 6d. net.

A jester's life must, we suspect, be always haunted by the knowledge that sooner or later inspiration will dry up. A writer upon torts or contract can always count on Lord Justice Denning to find him something new ; an astronomer can eke out a page by attacking or defending Einstein or Mr. Hoyle. George Robey, it is true, in a recent birthday interview advised his fellow craftsmen, if they could no longer find gags for themselves, to employ competent script writers—but who is to act as " ghost " for so individual a jester as Sir Alan Herbert ? We have lost count of the first appearance in print of Mr. Alfred Haddock, yachtsman, member of Parliament, holder of a passport, filling (in short) any role in which his creator fancied himself for the moment. Those roles, more diversified than Sir Alan himself can possibly have filled, must be as numerous as have been played by Mr. Robey in his eighty years. In *Codd's Last Case* (and others in the book so named) he appears again : again rather than afresh, for one feels that one has somewhere read much of this before and (if we may ourselves labour a joke) that these Haddocks are a little stale—or, maybe, oversmoked by the learned author's lamp. Moreover, as with another comic character whose name makes headlines, politics seem, willy nilly, to have entered in, and politics are—as every music hall gagster is aware—a ready way to raise a passing laugh, but deadly stuff if their use persists. True, Sir Alan sat for years in Parliament as an independent member for a University constituency, and might now say (with Mr. Chaplin : *vide* the newspapers of September 23) that he has " no political convictions . . . (but) believes in liberty."

But Sir Alan's " liberty " is like that of another Oxford figure of

our time, Sir Carlton Allen, to whom we have in these columns referred as the last of the Whigs. *Prima facie* nothing done by governments is good; British governments are inevitably foolish, Continental governments pretty certain to be knavish. Now these waters can be fished profitably, up to a point, especially in *Punch* and similar places where the Haddock has been trailed, but the catch smells less attractive when compressed between covers of a book. We have been prompted to these particular reflections by the (misleading) case of *Albert and Gloria Haddock* v. *The King*, with Sir Alan's editorial footnote modelled upon those to be found sometimes in All E.R. The "case" itself shows the House of Lords endorsing Mr. Haddock's contention that, *because* (italics ours) he paid a fee on applying for a passport, the passport became his property and could not be withdrawn: a contention which, we should have thought, was absurd upon the face of it, to anyone who considers the nature of a passport, and even if it were good English law would have no force to bind a foreign government which (for its own reasons of security) wished to retain the passport for inspection and to put its own stamp on it. Again, the very nature of a passport gives the answer. The footnote to this case is a bad tempered (and, it might be said, ill mannered) attack upon the administration of a named frontier post upon the Continent, where—if the author had some unfortunate experience—thousands of his fellow countrymen, less critical, have passed easily and happily enough.

Hogby v. *Hogby*, of which the sub-title is "The Price of Justice," is dated 1938, and makes in regard to divorce a point we have made in our own columns in relation to the sort of cases which most interest us: namely, the appalling cost of litigation in this country. *Greenwich Women's Rowing Club* v. *Haddock* (undated) and *Haddock* v. *Silkworm* (1943) are heavy handed skits upon the Regulations for the Prevention of Collisions at Sea, and upon the salvage drive of the middle war years, respectively; *R.* v. *Broadwick* on the practice of requiring a deposit from candidates in a parliamentary election. Are these matters of enough general interest to be food for satire? On any one of them we can imagine the general reader's saying he could not care less. *R.* v. *Reinstein*, subtitled the Wizardry Case, is dated 1951, and contains entertaining matter upon the theme of "pretending" to tell fortunes. The learned author is, however, confused between a judge and a chairman, and his editorial footnote supposes that a conviction upheld by quarter sessions could be quashed in the Court of Appeal—strange delusion for a writer upon legal topics. In the footnote to *Fester* v. *R.* (1945), one of the poorer efforts in the book, he also confuses *mandamus* with *certiorari*: plainly it is the latter that he means. On the other hand the *Whale Case* (*Haddock* v. *Oundle and Others*) is an entertaining skit on nothing in particular. Here, and in *R.* v. *Bopple*, having no person or institution in mind to be attacked, the author could afford to be good humoured. *In Re Munsey* is a forceful satire on a piece of legal nonsense, and *R.* v. *Haddock and Vine* upon a weakness of the betting laws which is new to us and apparently genuine. *Temper* v. *Hume and Haddock* which is dated 1951 is good, and the author is entitled to much of the credit he claims for efforts to get rid of one of the sillier points in the law of defamation. On the other hand, some "cases" of the same year attacking exchange control and the budget of 1951 seem to us perverse. The last case reported (*R.* v. *Rungle*, the last heard by Codd, J., giving the title to the book) is also dated 1951; it is excellent farce, and very apposite today to the current arguments about dealing with crimes of violence. To sum up, this is not a vintage Haddock; some of it is old, republished matter, and much of the humour is forced. But it contains some half a dozen cases which are equal to the author's best, and, with the season coming for Christmas presents, its cost of 10*s.* 6*d.* may perhaps be justified.

Dr. Walter Baily, Physician to Queen Elizabeth. By L. G. H. Horton-Smith. Price 10s. 6d. net. Obtainable for 12s. post free from the Author at 26, Rivercourt Road, London, W.6.

This is a successor to the learned author's larger book entitled the *Baily Family of Thatcham and later of Speen and Newbury*, published in 1951. It appears from his preface that he has also published, in various places, a number of contributions to knowledge of Dr. Baily and his family, of which perhaps the most generally interesting is his correction of an error made by Sir Walter Scott, and repeated in a more modern romance by Miss Marjorie Bowen. Though used by novelists, Dr. Baily was a real personage, of importance in his day, having been physician to Queen Elizabeth and, according to Scott (following a story by Ashmole), having refused to supply medicine to Leicester, then Lord Robert Dudley, to be administered to Amy Robart, the refusal being based upon a shrewd apprehension that poison might be added to the drug. It may be doubted whether the learning which the author has lavished upon Baily and his family will find many students even for this work, less expensive than that which we reviewed last year. It must be admitted, moreover, that even for those interested in such matters it is heavy going. It is also marred here and there by too evident a desire to hit out at other writers. It is proper for an historian or antiquarian to point out an error in the Dictionary of National Biography (where it is said wrongly that Baily was at one time in holy orders) but there is no need to repeat several times how gross is this error, with new derogatory epithets. The work is perhaps one which is more likely to find a home in the more serious libraries than with private readers, but for those who take an interest in the genealogy of persons unrelated to them, the work will repay perusal, as also for those who (like Mr. Horton-Smith himself) claim kinship with the Bailys.

THE WEEK IN PARLIAMENT

From Our Lobby Correspondent

MOTION OF CORPORAL PUNISHMENT

Lt.-Col. Sir Thomas Moore (Ayr), supported by thirteen other M.P.s, has tabled the following Motion on Corporal Punishment:

"That this House notes with approval the views recently expressed by Her Majesty's High Court Judges on the subject of corporal punishment for offences with violence, and calls on Her Majesty's Government to repeal that section of the Criminal Justice Act, 1948, which abolished this method of punishment. Furthermore, that this House, feeling deeply conscious of its responsibility to protect law-abiding and helpless citizens from wanton attack, is satisfied that the best way to do so is to restore to the Courts the power to impose punishment by birching on those found guilty of such offences."

Mr. H. Hynd (Accrington) has proposed that this Motion be amended to read as follows:

"That this House notes with approval the views recently expressed by the Magistrates' Association in declining to support a proposal for the reintroduction of corporal punishment."

No date has yet been fixed for a debate on the subject.

NOTICES

The Board of Trade announce that as from November 3, 1952, the office of the Official Receiver at 4, Queen Street, Carmarthen, will be closed. All business for the Carmarthen Bankruptcy district will from that date be conducted from the Office of the Official Receiver at 10, St. Mary Square, Swansea.

A Special University Lecture in Law by Dr. G. C. Cheshire, F.B.A., D.C.L., "A New Equitable Interest in Land," will be given at 5.30 *p.m.* on Wednesday, December 3, 1952, at King's College (University of London), Strand, W.C.2.

ADDITIONS TO COMMISSIONS

ESSEX COUNTY

Frederick John Abbott, 100, Hainault Road, E.11.
John Barker, 95, Aldborough Road, Ilford.
Mrs. Charlotte Bawden, Brick House, Gt. Bardfield, Braintree.
Mrs. Cora Alice Chappel, 24, Hillcrest Road, Loughton.
Kenneth Cuthbe, 64, Valentine Way, Silver End, Witham.
Alfred John Clayton D'Arcy, 1, Langdale Gardens, Chelmsford.
George Frederick Dutch, 129, Collier Row Lane, Romford.
David Llewellyn Evans, 95, Poppleton Road, Leyton.
Newman Eyre, Red Court, Parkway, Gidea Park.
Mrs. Dorothea Joy Hawkins, 14, West Road, Saffron Walden.
Frederick John James, 3, Kingsmoor Road, Great Parndon, Harlow.
Mrs. Evelyn May Keith, The Cottage, Manuden, Bishop's Stortford, Herts.
Mrs. Evelyn Beatrice Lawrence, Crownside, Kelvedon Hatch, nr. Brentwood.
John Menhinick Lukies, Philpotts, Hatfield Broad Oak.
Sir Philip Bouverie Bowyer Nichols, K.C.M.G., M.C., Lawford Hall, Manningtree.
Cyril Thomas Nunn, 141, Warley Hill, Warley, Brentwood.
Karl Stewart Richardson, Hungary Hall, Witham.
John Durell Watkinson, 9, Blamsters Crescent, Halstead.

OXFORD COUNTY

Mrs. Dorothy Jean Beaumont, 149, Herschel Crescent, Littlemore, Oxford.
Alfred John Evans, Erlenbach, Victoria Road, Bicester.

WARWICK COUNTY

Charles Guy Fulke, Earl Brooke and Earl of Warwick, Warwick Castle, Warwick.

PARLIAMENTARY INTELLIGENCE

Progress of Bills

HOUSE OF LORDS

Wednesday, November 5

EMERGENCY LAWS (MISCELLANEOUS PROVISIONS) BILL, read 1a.

HOUSE OF COMMONS

Wednesday, November 5

TRANSPORT BILL, read 1a.
IRON AND STEEL BILL, read 1.
EXPIRING LAWS CONTINUANCE BILL, read 1a.
PUBLIC WORKS LOANS BILL, read 1a.
NEW VALUATIONS LISTS (POSTPONEMENT) BILL, read 1a.

PERSONALIA

APPOINTMENTS

Mr. William Armstrong has been appointed assistant official receiver for the bankruptcy district of the county courts of Newcastle-upon-Tyne, Durham and Sunderland; and also for the bankruptcy district of the county courts of Stockton-on-Tees, Middlesbrough and Darlington.

Mr. Walter T. Selley, M.A., B.Sc., M.Ed., deputy chief education officer for Bolton, has been appointed chief education officer in succession to Mr. W. H. Hayward, M.C., M.M., M.A.

Mr. Ralph Arthur Donovan Copper has been appointed assistant official receiver for the bankruptcy district of the county courts of Southampton, Bournemouth and Winchester; the bankruptcy district of the county courts of Portsmouth, Newport and Ryde; and also for the bankruptcy district of the county courts of Salisbury, Dorchester and Yeovil.

MILK AND DAIRIES

It is here proposed to discuss the recent legislation and a few cases relating to the control of milk and dairies, with particular reference to such powers as have been left to the councils of county districts, and to local government generally, after the major alterations in the subject effected in 1949.

(A) LEGISLATION

The "principal Act" is the Food and Drugs Act, 1938, and this Act has still to be consulted for many provisions relating to milk and dairies, in particular procedural matters and the law relating to sampling. The substantive provisions are now, however, contained in the Food and Drugs (Milk Dairies and Artificial Cream) Act, 1950, which came into force on January 1, 1951, and replaced the Food and Drugs (Milk and Dairies) Act, 1944 (which Act itself repealed the Milk and Drugs provisions of the 1938 Act, but lived in a state of suspended animation until October 1, 1949, when it was first brought into operation), and the Milk (Special Designations) Act, 1949. Most of the law met in practice is, however, contained in three sets of regulations, all of which came into force on October 1, 1949—the Milk and Dairies Regulations, 1949 (S.I. 1949, No. 1588), the Milk (Special Designation) (Pasteurised and Sterilised Milk) Regulations, 1949 (S.I. 1949, No. 1589), and the Milk (Special Designation) (Raw Milk) Regulations, 1949 (S.I. 1949, No. 1590); the "special designation" Regulations were amended, in comparatively minor respects, by S.I. 1950, No. 409 and S.I. 1950, No. 410 respectively. These various sets of regulations were made under the powers contained in ss. 20 and 92 of the 1938 Act, and the subsequent amending legislation (for details, *see* Halsbury's Statutory Instruments, Volume 9, p. 127, *et seq.*), and they have been kept in force by virtue of s. 36 (2) of the Act of 1950. Considerable care must thus be taken in drafting an information initiating proceedings under any of these regulations, to refer to the correct sections: failure in this respect was fatal in *Meek* v. *Powell* [1952] 1 All E.R. 347.

The Act of 1950, although a consolidating Act except for some of the provisions dealing with "special designations," only provides the bare bones of the subject—the flesh and blood is provided by the regulations made under the Act and its predecessors as above explained. It is, therefore, proposed to discuss the three Parts of the 1950 Act ("Milk and Dairies," "Special Designations," and "Artificial Cream") and the subject matter of the Regulations, showing how they fit into the general framework of the statutes and are supplemented thereby; sampling is considered subsequently.

(B) MILK AND DAIRIES REGULATIONS, 1949

These regulations very greatly increase the powers of control over milk and its distribution which existed under the 1926 Order, but these powers are no longer all vested in the local sanitary authorities.

The means of control over producers and distributors of milk is provided by the requirement that all farmers and distributors shall register, as a condition to their continuing in business; every breach of the regulations is made an offence, by reg. 33 (the authority for this regulation was contained in s. 92 (2) (*e*) of the 1938 Act, now re-enacted, but not repealed, by s. 7 (5) of the 1950 Act). The registration of dairy farms and of dairy farmers is the concern of the Ministry of Agriculture and Fisheries—a "dairy farm" is any farm, cowshed or other premises being a dairy on which milk is produced from cows, and a "dairy" includes any farm, cowshed, milking house, milk store, milk shop or other premises from which milk is supplied on or for sale, or in which milk is kept for the purpose of sale or manufacture into butter for sale, etc.—the emphasis throughout these complicated definitions being on the words "for sale." A dairy farmer, on the other hand, is a dairyman (*i.e.*, an occupier of a dairy, a cow-keeper, or a "purveyor" of milk by retail or by wholesale (*see* 1938 Act, s. 100 (1)) who produces milk from cows.

The Minister may refuse to register, or may cancel the registration of, any person as a dairy farmer, or any dairy farm, on the grounds that in his opinion the regulations cannot be complied

with having regard to conditions existing at the premises to be registered, or (in the case of a cancellation) that in his opinion the regulations are not being complied with. The person affected by such intended action of the Minister may lodge an objection, which then stands referred for report on the facts to an *ad hoc* tribunal constituted under the Regulations, or alternatively may make representations to the Minister. The report of the tribunal or the representations must be considered by the Minister, but it seems that he has an unfettered discretion in making his decision.

Milk distributors (*i.e.*, those persons who trade as dairymen elsewhere than at or from premises in relation to which they are registered as dairy farmers under the regulations) must register with the "local authority"—*i.e.*, normally, the local sanitary authority; *see* s. 64 of the 1938 Act. It should be noted that a distributor must register with every local authority in whose district he sells milk, whether or not he has premises in such district. Where the authority consider that the public health is, or is likely to be, endangered by any act or default in relation to the quality, storage or distribution of milk, committed within or without their district by a person who is an applicant for registration, or who is already registered by them, they must serve on him a notice giving him an opportunity of appearing before them (*see* 1950 Act, sch. 1, Part I). Having so heard the person concerned, the authority may decide to refuse or cancel the registration: any person aggrieved will then have a right of appeal to a court of summary jurisdiction. This is not a new procedure, being a mere repetition of the provisions of the 1938 Act, but as all having experience of local government will agree, these statutory provisions providing for personal appearances of aggrieved persons before a committee of the authority rarely work well in practice (*cf.* s. 11 of the Housing Act, 1936). The "defendant" is rarely represented, but comes to the meeting with a sense of grievance and often in an aggressive attitude; the committee, though advised by a lawyer, do not have the attitude of a court, and have often pre-judged the issue, on the report of their officers, which officers are not, of course, open to cross-examination by the "defendant." The appeal to the courts is therefore, a salutary safeguard, although in practice it is very seldom used. The stranger point is perhaps, that Parliament has seen fit to provide, in cases where the decision is vested not in locally elected councillors, but in the civil servants of a Government Department, for the only "appeal" to lie to an administrative tribunal, appointed by the Minister.

The inspection of cattle, and of dairy farms generally, and the enforcement of the regulations relating thereto, are matters for the Minister. Other provisions of the regulations deal with buildings and water supplies, the production of milk and the treatment, handling and storage of milk, the protection of milk against contamination or infection, the cleansing and storage of vessels, utensils and appliances (including milk bottles), and the conveyance and distribution of milk. In so far as these matters relate to dairy farms, any necessary proceedings would have to be taken by the Minister, but in other cases, they are the concern of the local authority—and this would include an offence committed by a dairy farmer otherwise than at a dairy farm. Part VII of the regulations, which deals with the prevention of infection of milk from some notifiable disease (to be understood in the terms of s. 343 (1) of the Public Health Act, 1936), is also the concern of the local authority, at all registered premises, whether dairies or dairy farms. Powers of entry are conferred on the officers of the Ministry, but in effect the officers of the local authority cannot exercise such powers in respect of dairy farms, otherwise than in connexion with the enforcement of Part VII, *supra*.

J.F.G.

(*To be concluded*)

THE ART OF WRITING

Ready sympathy will be extended to Mr. Justice Slade, who in a recent case was asked to decide whether a lease of certain premises in Holborn was the personal property of the defendant, Mr. Chong Gum, or whether, as alleged by the plaintiffs, Messrs. Lo Ping and Thomas Foo, the said lease was held by the defendant in trust for the Chinese Social Club. In the course of the hearing the learned Judge found himself confronting a whole series of documents which baffled even his considerable erudition. "I will hand them up" said counsel "for your Lordship's pictorial gratification; they look very nice." As they were all, from start to finish, in Chinese characters they seem to have been of an aesthetic rather than evidential value.

Though this episode is not exactly typical, it does no more than represent, in a slightly exaggerated form, the kind of thing with which the Bench is frequently expected to cope. More than one judge has, in recent times, animadverted unfavourably upon the inconvenience and waste of time caused by illegible hand-writing in documents produced in evidence—particularly the obscure scribbles and meaningless flourishes affected by Commissioners for Oaths and others in appending their signatures which, for all they convey by way of identification, might just as well be in Chinese, Babylonian Cuneiform or Sanskrit. As has been pointed out by Sir James Frazer and other anthropologists, primitive societies regard a man's name as sharing the essence of his personality; to protect him from the attentions of evil spirits, or human workers of magic, his true name is kept a closely-guarded secret and seldom or never pronounced; his identity being disguised in common parlance by a nickname or descriptive epithet. Some survival of this age-old practice is no doubt to be traced in the unintelligible hieroglyphics that many people make of their signatures today—strange, amorphous symbols which by no stretch of imagination can be related to the names they are supposed to represent.

It is in this matter of penmanship that we find the greatest contrast between the rush and bustle of western life and the calm deliberation of the Orient. The ancient civilization of China, which for centuries honoured the scholar above all other men, regarded proficiency in calligraphy as one of the principal hall-marks of a liberal education. From its earliest beginnings handwriting in China has been considered as a kind of painting in words—a pictorial expression of thought—and a piece of fine calligraphy ranks as high as a work of art, as much a means of self-expression as a picture. During the Yüan Dynasty (which was roughly contemporaneous with the Italian Renaissance) it became usual for painters to describe their activities as "writing their thoughts"; the famous artist Chao Mêng-Fu has said:

> "Painting and writing are fundamentally the same; to paint a rock is to 'write' in the Flowing-Taffeta style; to paint a tree is to 'write' in the Seal-Engraving style. If you want to 'write' bamboos, you ought to be familiar with the Eight Styles of Calligraphy."

The preparation of the brushes which Chinese artists and calligraphists use for their work is an art in itself; the fur of rabbits, specially bred for the purpose, the hair of badgers, wolves and foxes, and even the whiskers of mice, have been used for the different qualities of brushwork required. To substitute the dull uniformity of the steel nib, the fountain-pen or the stylo for the fine delicacy and individual distinction of the brush would, for a Chinese calligraphist, be unthinkably coarse.

To find in Europe anything comparable to the Chinese art of calligraphy we must go back to pre-Renaissance times. Before and during the Middle Ages European scholars, especially those in the great monasteries who devoted their leisure to copying, took an intense pride in their calligraphy, and the illuminated missals and secular books and manuscripts, hand-written and hand-painted, which are preserved in our great libraries and museums, are masterpieces of symmetry and elegance. Styles of writing—Uncial, Caroline Minuscule, Gothic—were as varied as the subject-matter they recorded, and certain hands were by Papal ordinance reserved for certain purposes. Those were leisurely times for scholars; the decay in the art seems to have set in with the general adoption of printing; with the development of commerce the craze for speed brought the practice of calligraphy more and more into disuse. By the time of Shakespeare the element of snobbery, which is much in evidence today, had begun to show itself; Hamlet confesses as much to Horatio (with a sly dig at the principal offenders, the politicians):

> "I sat me down;
> Devised a new commission; wrote it fair.
> I once did hold it, as our statists do,
> A baseness to write fair, and labour'd much
> How to forget that learning; but, sir, now
> It did me yeoman's service."

Then, as now, the primary requirements of legibility and shapeliness were thrust into the background by the affectation that "character" in handwriting is more important than either. A good clerkly hand is associated, in the minds of careless people, with menial and unimaginative work; this, by a common error in logic, leads to the facile acceptance of the inverse proposition that an illegible scrawl is a sign of mental capacity and brisk importance. The trend has been accelerated by the vogue of the typewriter, and there is little doubt that within a hundred years or so handwriting will have become a lost art.

In England today the so-called reforms introduced by a series of Education Acts, whatever other changes they may have effected, can scarcely be said to have improved the literacy of children leaving the elementary schools in their early teens. "The Three Rs," which used to be regarded as a basis of primary education, are tending to become more and more neglected; boys and girls are influenced less by these studies than by the cerebral processes (if they can be called such) set in motion by an over-indulgence in American-style "comics," gangster-films and that cult of brutal violence which seems to be the obsession of so many playwrights, of immature mental development, on radio and television. Illegible and illiterate writing is part of the general decline in taste, style and good manners in the literary field, and if Lewis Carroll were alive today he would find his parody of "The Three Rs" almost exactly descriptive of the present situation:

> "I only took the regular course," said the Mock Turtle with a sigh, as he and Alice discussed their scholastic attainments; "Reeling and Writhing, of course, to begin with, and then the different branches of Arithmetic—Ambition, Distraction, Uglification and Derision."

Art was taught in his school, it is true, but only as an "extra"—"Drawling, Stretching and Fainting in Coils."

This formidable curriculum might very well be applicable, in a literal sense, to the educational equipment of many young people brought up on the progressive methods of the present day.

A.L.P.

Problems of due execution
Invariably mean a diminution
In the amount for eventual distribution.

J.P.C.

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Building Materials and Housing Act, 1945—*Exchange of houses of unequal values—No money payment.*

A is the owner of house constructed under a building licence and the maximum price at which the house may be sold is £1,400. B is the owner of a pre-war house which is reputed to have a value of £2,000 in the open market. A and B for domestic reasons desire to exchange their houses and B does not wish for any money from A by way of equality of exchange. My opinion is that an exchange on these terms would be an infringement of s. 7 of the Building Materials and Housing Act, 1945. If you agree, can you advise me of any way in which the transaction can legally be affected. F.L.C.

Answer.

We can see nothing in this Act to preclude the transaction you describe. The Act of 1945 applies to sales or lettings and not to exchanges. Whether a transaction is a "sale" is a question of mixed fact and law: had there been a money payment here the effect might have been different, but we do not agree that such an exchange as this would constitute an offence under s. 7 of the Act, which appears to have left a loop-hole in this respect.

2.—Fertilizers & Feeding Stuffs Act, 1926, ss. 4 (3) and 20 (4)—*Period for return of summons.*

Proceedings have recently been instituted by the council against a company, pursuant to s. 4 (3) of the Act, alleging that the company did expose for sale an article of feeding stuff to which the Act applies, which was not then marked with a mark or marks stating or indicating the particulars required by the Act to be contained in the statutory statement. Upon the hearing of the information, the company's solicitor referred to s. 20 (4) of the Act, and at the outset objected to the fact that the summons against the company had been made returnable in less time than fourteen days from the date upon which it was served upon the company, and argued that by reason thereof the summons was bad and the proceedings should be dismissed. In support of his argument, the solicitor for the company referred to s. 19 of the Act, which is the section prescribing the penalty for a contravention of s. 4, and he stated that because the proceedings in respect of this offence were proceedings to which s. 19 applied, s. 20, therefore, also applied to proceedings instituted under s. 4 (3). The solicitor contended that the words "in any such prosecution as aforesaid," contained in s. 20 (4), referred to all proceedings for any offence against the Act to which s. 19 applies (s. 20 (1)) and submitted that the summons should not have been made returnable in less time than fourteen days from the date upon which it was served.

The prosecuting solicitor argued that the words "in any such prosecution as aforesaid" applied only to cases where the prosecutor proposed to produce a certificate of analysis of the agricultural analyst. In respect of an offence under s. 4 (3) of the Act of failing to mark an article of feeding stuff, it was unnecessary to carry out any sampling and, consequently, no question of the analysis of the feeding stuff arose, and no certificate of analysis had been procured. The prosecuting solicitor submitted that the object of the fourteen day period was to give the defendant an opportunity of considering the terms of the analyst's certificate, and if necessary giving the defendant an opportunity of requiring the analyst to be called as a witness. The prosecuting solicitor submitted that s. 20 (4) of the Act had no application to a prosecution for an offence under s. 4 (3).

Your opinion as to whether s. 20 (4) of the Act applies to proceedings under s. 4 (3), where no certificate of analysis is obtained, would be appreciated. PEAN.

Answer.

Section 20 (4) of the Act of 1926 in our opinion applies only to a prosecution under s. 20 (3). Subsection (4) says "In any such prosecution as aforesaid" and the only prosecution referred to in the section is in subs. (3). Section 4 (3) deals with parcels not marked, and those marked falsely or not including particulars, etc. A prosecution for not marking is not a prosecution within s. 20 (3) and s. 20 (4) does not, therefore, apply.

3.—Landlord and Tenant—*Tenant sublets and afterwards purchases freehold—Joint ownerships.*

A became the tenant of certain property in 1936, and in 1940 he sub-let part of the property to B. In 1950 A jointly with his wife purchased the property. The property is protected under the Rent Restriction Acts, and is "new control." A and his wife have applied for a warrant to the justices and pleaded section (*h*) of sch. 1 to the 1932 Act, requiring the property for their son.

Your opinion is desired on the following points:

(*a*) Are A and his wife landlords within the meaning of the said section (*h*) and entitled to the benefit of that section, as A alone let the property in the first instance?

(*b*) Has the title of A and his wife to the property to be formally proved in accordance with s. 1 of the Small Tenements Recovery Act, 1838, as A alone let the property. AFORE.

Answer.

(*a*) In *Baker* v. *Lewis* [1948] 1 K.B. 187, it was held that the word "landlord" in paragraph (*h*) of sch. 1 to the Rent and Mortgage Interest Restrictions (Amendment) Act, 1933, includes the joint owners of a dwelling-house. As the composite landlord, A and his wife only became the landlord of B by purchase, and are not entitled to the benefit of paragraph (*h*). (It seems that if A alone had purchased the property he would not have become the "landlord" by purchase for this purpose).

(*b*) In view of the answer to (*a*), this does not arise.

4.—Licensing—*Special order of exemption—Right of member of public to object.*

I shall be very much obliged if you will let me have your opinion on the following licensing matter.

When justices are considering the granting of extensions of hours is it permissible for the justices to hear any private person living in the neighbourhood who wish to object?

Your learned opinion will be much appreciated together with any cases you can refer me to. NOOK.

Answer.

In our opinion, a court must decide judicially whether or not to grant a special order of exemption and may inform itself on any aspect of the matter from whatever source information is available. As in an application for the grant of a new licence, any member of the local community may without notice oppose the application on public grounds, apart from any individual right or interest of his own (*cf. Boulter* v. *Kent JJ.* (1897) 61 J.P. 532). It is customary for a court to ask the police if there is any objection to an application being granted, and, in our opinion, the police are in no stronger position in this connexion than any other person.

So far as we know, the exact point, as it touches s. 57 of the Licensing (Consolidation) Act, 1910, has never been considered by the High Court; but rather than seek authority for the view we express on this point of licensing administration, we would require strong authority to persuade us to a contrary opinion.

5.—Public Health Act, 1936, ss. 64 and 300—*New building—Proposed connexion to surface water sewer.*

My council recently disapproved plans deposited under building byelaws on the ground that the soil drainage from the house and premises were shown as discharging into a drain used solely for the conveyance of surface water. The question whether the drain is in fact a public sewer has been raised by the architect, but unfortunately the notice of disapproval of plans did not contain the statement required by s. 300 (3) of the Public Health Act, 1936, as to right of appeal. As the time limit for notice of disapproval of plans has now expired, your advice will be appreciated as to whether the applicant can now claim the right to discharge the soil drainage into the drain. FIXO.

Answer.

The query leaves some facts uncertain, *e.g.*, whether the case falls within s. 34 or s. 37 of the Act of 1936. We assume for purposes of answering it that the plans were for erection of a new building or for extension of a building. We assume further that the plans had neither been defective in themselves nor shown non-conformity with the council's byelaws—if either of these had been the ground for rejecting the plans, the owner could have applied to justices under s. 64 (3) of the Act to determine whether the rejection was right, and s. 300 (3) mentioned in the query would have been irrelevant. As we have pointed out several times, *e.g.*, 105 J.P.N. 573; 112 J.P.N. 222; 116 J.P.N. 63; s. 300 speaks both of applications and of appeals, and s. 300 (3) applies only to the latter. It seems that the rejection was upon the ground that s. 37 of the Act was not satisfied, because the plans did not show "satisfactory" drainage. If so, s. 37 (2) gives the builder a right to have the question determined by a court of summary jurisdiction—here again (contrast s. 37 (3)) on application, not on appeal. There is no time limit in the Act of 1936 for applications (contrast s. 300 (2)). (Seeing that the plans have been disapproved, and notice of

disapproval is said to have been given, we are not sure of the point of saying in the query that the time for notice of disapproval of plans has now expired). It seems to be open to the builder now to apply to justices in pursuance of s. 300 (1) (*b*). If he does not take advantage of this right to apply, and goes ahead with his proposals notwithstanding rejection of the plans, s. 65 (2) indicates the council's remedy.

6.—Public Utilities Street Works Act, 1950—*Undertaker's apparatus—Omnibus shelters.*

1. An urban district council operate omnibus services under local Acts, one of which provides :

The council may on any omnibus routes erect and maintain shelters or waiting-rooms and gangways for the accommodation of passengers and may with the consent of the road authority use for that purpose portions of the public streets or roads.

2. An omnibus shelter was erected under the provisions of the above section on an unclaimed county road in 1921 with the express approval, it is believed, of the county council as the " road authority " as defined by the Act.

3. The county council have now served notice, under the Public Utilities Street Works Act, 1950, of intention to carry out a road improvement scheme which will involve the permanent removal of the shelter.

4. Is the omnibus shelter " apparatus " within the meaning of the code in Part II of the Act of 1950 so as to render the county council liable to repay to the district council the reasonable cost incurred in removing and re-erecting the shelter on another site ?

PER.

Answer.

Yes.

7.—Road Traffic Acts—*Dangerous driving charge—Evidence that the driver had been drinking—Admissibility.*

In your Practical Points column at 102 J.P.N. p. 47 relating to the relevance of evidence of having taken drink in connexion with a charge under s. 11 of the Road Traffic Act, 1930, you will recollect that you give as your opinion there that evidence of a licensed victualler to the effect that the driver had had some drink is inadmissible in connexion with a charge under s. 11, and also that such evidence could not be regarded as included in the " circumstances of the case " referred to in s. 11.

I am acting for a defendant in connexion with a summons under s. 11 and have reason to believe that the prosecution will seek to call evidence that the defendant had been drinking on the occasion in question. In objecting to such evidence as inadmissible I should like to be in a position (apart from the general contention that such evidence is irrelevant to the charge being heard) to quote some authority in support of the contention.

I should be glad if you could quote any such authority.

J.N.P.

Answer.

We are not aware of any case on this point. We dealt with a similar query recently in P.P. 17 at p. 144 of the current volume. We would emphasize that in our view the evidence that the driver had been drinking is irrelevant on this charge. What is relevant is evidence to show how the car was being driven, and evidence that the driver has had some drink seems likely only to create in the mind of the court a prejudice that the defendant is likely to have driven dangerously without adding anything as to the way he did actually drive.

The fact that the evidence of drinking is likely to cause prejudice in the mind of the court is an additional reason for excluding it on the ground of its irrelevance.

8.—Small Dwellings Acquisition Acts, 1899-1923—*Housing Act*, 1949, *s. 4—Preference for latter power.*

Since the coming into operation of the Housing Act, 1949, my council have been making all advances (whether for acquisition of existing houses or for erection of new houses) under s. 4 of that Act and have ceased to make advances in respect of existing houses under the Small Dwellings Acquisition Acts, 1899-1923. It appears that so far as the council are concerned there is no particular advantage in continuing to operate the Small Dwellings Acquisition Acts as well as the Housing Act, 1949. Do you agree ?

PERO.

Answer.

Yes.

9.—Vehicles (Excise) Act, 1949—*Tax for hired and private cars—Occasional interchange in use.*

X owns three cars, A B C, all registered before 1947. For purposes of this query, it may be assumed that all cars have insurance cover for all the uses in question. A is a small 8 h.p. fourseater so that the tax is the same whether sch. 2 or sch. 5 of the Vehicles (Excise) Act, 1949, applies. B and C are big twenty-four h.p. cars, so that the tax under sch. 2 would be appreciably smaller than under sch. 5. X uses A and B normally for hired journeys (not cabs), and has on each of them the plate required by s. 18 of the Act of 1949. C was bought for his own family use ; pays the full tax as a private car, and does not carry the said plate. At times of pressure when the other cars are out on hire X sometimes allows C to be used in his hiring business. He uses A not infrequently for household purposes, *e.g.*, his wife takes it for shopping, etc., as well as his letting it on hire in course of his trade. Sometimes, as when C is being overhauled, he will use B for personal or family purposes, such as a touring holiday.

Is any revenue offence committed ? X contends, as regards his non-business use of cars A and B, that no offence is committed under s. 13 or otherwise because they are, regularly and *bona fide*, kept and used for his business, and so entitled to be taxed under sch. 2, despite his using them also outside the business. (As the tax stands at present, there is no difference in the amount of tax as regards A, but the advantage to him as regards B is substantial). He contends as regards C that there is no revenue offence (or other), in his sometimes letting this on hire, because in fact he is paying a bigger tax then he would pay if the car was treated as falling within sch. 2. He argues that s. 18 does not apply to a car which, although *de facto* let on hire, is taxed at the full private rate ; in other words, that the plate required by that section is required for distinguishing a car which is obtaining a taxation privilege, and need not be worn by a car which might claim that privilege but does not.

JINX.

Answer.

We think that the only offence disclosed is in the use of B as a private car. This constitutes an offence against s. 13 (2) because B is then being used for a purpose which, if it were used solely for that purpose, would bring it within a class of vehicle to which a higher rate of duty is applicable under the Act. We do not think that s. 13 (3) provides any answer to such a charge, and it is to be noticed that the use now in question is not, like those mentioned in subss. (3) and (4), given the benefit of any reference to " substantial " use, " occasional " use, or " only a small proportion." As regards the use of C for purposes of occasional hire, no offence is committed, because X is paying a bigger tax than is obligatory for a hired car, while reg. 31 of the Road Vehicles (Registration and Licensing) Regulations, 1951, s. 1 1951, No. 1381, makes it clear that no hackney carriage plate is required on C when it is so used.

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Legal Assistant

APPLICATIONS are invited for the above appointment from solicitors with good knowledge of conveyancing (including Land Registry practice). Previous local government experience not essential but will be an advantage. Salary A.P.T. Grade VA to VII (£625—£785) according to experience.

Terms of appointment and forms of application may be obtained from the undersigned to whom completed applications should be returned not later than November 22, 1952.

The appointment will be subject to the Local Government Superannuation Act, 1937, and the successful candidate will be required to undergo a medical examination.

F. H. SMITH,
Clerk of the Council.

Council Offices,
Woking.
November 5, 1952.

MIDDLESEX COUNTY COUNCIL CHILDREN'S DEPT.

CHIEF CLERK required, at Head Office. Responsible to Children's Officer for administrative work of Department. Detailed knowledge of local government administration essential. Salary A.P.T. VIII. £790—£865 p.a. inclusive (£10 less if under twenty-six). Established, subject to medical assessment and prescribed conditions. Application forms (stamped addressed foolscap envelope) from Children's Officer, 10, Great George Street, Westminster, S.W.1, to be returned by November 29 (quoting L.397 J.P.). Canvassing disqualifies.

C. W. RADCLIFFE,
Clerk of the County Council.

COUNTY BOROUGH OF SOUTHEND-ON-SEA

Appointment of Male Probation Officer

APPLICATIONS are invited for the above appointment which will be subject to the Probation Rules, 1949/1952.

Preference will be given to applicants between the ages of twenty-three and thirty years.

Applications, with the names of two referees, should be sent to the undersigned before December 6, 1952.

H. HOMFRAY COOPER,
Secretary to the Probation Committee.

1, Nelson Street,
Southend-on-Sea.

WESTMORLAND COUNTY COUNCIL

APPLICATIONS are invited for the post of Assistant Solicitor. The salary will be on Grades VA-VII, the point of entry to be fixed according to ability and experience.

The duties will include work in connexion with quarter sessions, the Lake District (National Park) Planning Board and the Magistrates' Courts Committee.

Further particulars and forms of application are available at this office.

Applications must reach me by December 1, 1952.

K. S. HIMSWORTH,
Clerk of the Peace and of the County Council.

County Hall,
Kendal.
November 5, 1952.

CITY OF BIRMINGHAM

Assistant Solicitor

APPLICATIONS are invited for the appointment of Assistant Solicitor in the Town Clerk's Office. Candidates must have extensive conveyancing experience but local government experience, whilst desirable, is not essential. Salary Scale A.P.T. X (£895—£1,025)—post pensionable—medical examination. Applications, accompanied by copies of not more than three recent testimonials and endorsed "Assistant Solicitor," should be delivered to the Town Clerk, Room 30B, Council House, Birmingham, 1, on or before November 26, 1952. Canvassing disqualifies.
November 10, 1952.

BOROUGH OF HESTON AND ISLEWORTH

Assistant Solicitor

APPLICATIONS are invited for the post of Assistant Solicitor on the permanent staff of the Town Clerk's Department, at a salary in accordance with Grades A.P.T. VII and VIII (£710 × £25 — £835) plus London weighting (£20 or £30 according to age). Applicants must have had at least two years' legal experience since admission.

Applications, stating age, particulars of experience, and the names and addresses of three referees, to be delivered to the undersigned by November 21, 1952.

HAROLD SWANN,
Town Clerk.

Council House,
Treaty Road,
Hounslow.

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The salary payable will be at the rate of £400 p.a.

Applications, marked "Assistant," stating age, marital and health conditions, present and past appointments with full particulars of experience, and the names of two referees, must be received by me not later than November 22, 1952.

O. F. ORMROD,
Clerk to the Justices.

44 Duke Street,
Whitehaven,
Cumberland.

CITY AND COUNTY OF NEWCASTLE UPON TYNE

Appointment of One Full-time Male Probation Officer

APPLICATIONS are invited for the above appointment.

Applicants must be not less than twenty-three nor more than forty years of age except in the case of a serving full-time probation officer. The appointment will be subject to the Probation Rules, 1949 to 1952. The salary will be in accordance with such rules and will be superannuable.

The successful candidate will be required to pass a medical examination.

Applications, stating age and qualifications and experience, together with copies of not more than two recent testimonials, must reach the undersigned not later than Saturday, December 6, 1952.

F. MORTON SMITH,
Secretary to the Probation Committee.

Magistrates' Courts,
Market Street,
Newcastle upon Tyne, 1.

Amended Advertisement

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Assistant Solicitor

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P. D. WADSWORTH,
Town Clerk.

The Council House,
Dudley.
November 12, 1952.

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